

Appln. No.: 10/747,848
Amendment Dated August 15, 2006
Reply to Office Action of May 15, 2006

Remarks/Arguments:

Claims 1-31 are pending in this application. Claims 2-13 are allowed and claims 1 and 14-28 are rejected. Claims 29-31 have been added. Support for new claims 29-31 can be found, for example, as shown at Figure 7. Applicants contend that no new matter has been added.

Applicants thank the Examiner for maintaining the allowable subject matter of claims 2-13, if rewritten into independent form. Applicants also thank Examiners Izquierdo and Barrett for speaking with Applicants' attorneys on July 19, 2006. While no agreement was reached, the discussion helped the Applicants' attorneys and the Examiners understand each others' positions. The Interview Summary prepared by the Examiners indicates that the Examiners will reconsider claims 1 and 14-28 in view of this response.

Regarding the comments made by the Office Action with respect to the Information Disclosure statement not being in compliance with 37 C.F.R. § 1.97, § 1.98 and M.P.E.P. § 609, after a brief discussion between Examiner Izquierdo and Applicants' attorneys on May 24, 2006, it is Applicants' understanding that this issue has been resolved. Specifically, because the French document 2,750,852 was cited in the accompanying European search report that was also submitted to the U.S. PTO, (the search report being issued by a foreign patent office in a counterpart foreign application), the Examiner agreed that the submission was in compliance with U.S. PTO rules.

Claims 1 and 14-28 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,133,732 ("Wiktor"). Applicants respectfully traverse these rejections and submit that the pending claims are patentable over the art of record for at least the reasons set forth below.

Response to Prior Art Rejections of Independent Claim 1

Claim 1 was rejected based on the Office Action's characterization that Wiktor discloses a connecting member 32 comprising a bridge member welded to a first strut and second strut as shown in Figure 7. (See Office Action page 3). In other words, the Office Action cites to longitudinal wire 32 connected at points 34 of Figure 7 as the recited connecting member of claim 1, as set forth in element (b). During the Examiner Interview, the Examiners explained

that it was not clear where the strut ended and the apex section started and that therefore Wiktor could be read to anticipate claim 1 if the strut were considered to extend all the way to the peak of each apex section. However, in a later part of the Examiner Interview, during a discussion with respect to claims 14 and 25 discussed in more detail below, the Examiners took an inconsistent position regarding how the apex sections of the Applicants' stents should be defined. The Applicants respectfully contend that the specification differentiates the strut from the apex section and that the claim language must be interpreted consistently from claim to claim.

Applicants contend that, as disclosed in Figure 7 of Wiktor, wire 32 is connected at points 34, which clearly are shown in Figure 7 at the peak of the apex sections. This is in contrast to the bridging member of claim 1, which requires that the bridging member of element (b) have a first portion welded to the first *strut* and a second portion welded to the second *strut*. Thus, because the wire 32 of Wiktor is not connected to struts, but is instead connected at apex sections, Wiktor is differentiated from claim 1. For at least this reason, Wiktor does not teach disclose or suggest Applicants' invention as claimed in claim 1 and claim 1 is therefore not anticipated. Reconsideration of the rejection of claim 1 is respectfully requested.

With respect to newly added dependent claims 29-31, Applicants contend that Wiktor fails to teach, disclose or suggest a stent in which the separate bridging member as recited in claim 1, option (b): is substantially parallel to the struts to which it is attached (claim 29); is attached to a linear portion of the first strut and a linear portion of the second strut (claim 30); and connects only two adjacent hoops (claim 31).

Response to Prior Art Rejections of Independent Claims 14 and 25

The Office Action rejects independent claims 14 and 25 under § 102(b) based on Wiktor. Applicants respectfully disagree, however, because the claimed invention includes structural features that are readily distinguishable from those disclosed by Wiktor. During the Examiner Interview conducted on July 19, 2006, the Applicants attorneys acknowledged that the Office Action's annotations to Wiktor Figure 8, included in the Office Action at page 4, were accurate and that indeed Wiktor could be interpreted as showing "two struts, one longer than the other, that lie on a common cylindrical surface having a common radius relative to the longitudinal

axis of the stent wherein the aforementioned struts combine to comprise the generally uniform and non-uniform apex sections."

Applicants' attorneys also pointed out, however, that claim 14 specifically requires that "for each apex section comprising one strut longer than the other, the two struts lie on a common cylindrical surface" Thus, while the struts attached to some of the apexes of Wiktor might meet the recitation of claim 14 noted above, at least the portions of Wiktor as shown in Figure 8 that form the "new apex sections," as shown in Applicants' annotated Figure 8 (see attached), did not meet this claimed feature. After some discussion in which it became clear that Applicants' attorneys and the Examiners were reading the claim language differently and that the Examiners interpretation of the terms "struts," and "apex sections" was not consistent with the reading adopted with respect to claim 1, the Examiners agreed to review the claim language again considering a consistent set of definitions.

It is the Applicants' position that the "new apex sections" formed by bending the wire to form the "hook apex section" in Wiktor do not have connected struts that all lie on a common cylindrical surface having a common radius relative to the longitudinal axis of the stent. Thus, as shown in Figure 8 of Wiktor, the short struts of the "new apex section" jut radially outward relative to the long struts and consequently, the long and short struts cannot inherently lie on a common cylindrical surface having a common radius relative to the longitudinal axis. During the Examiner Interview, the Examiners acknowledged that this interpretation was not previously considered and would have to be reviewed in further detail.

It was also noted by Applicants' attorneys during the Examiner Interview that the same interpretation of the apex sections applied to independent claim 25. Once again, the Examiners acknowledged that this interpretation was not fully considered when the rejection of claim 25 was made. Therefore, Applicants contend that the claimed feature of claim 25, namely, "the non-uniform apex sections and the generally uniform apex sections all lying on a common cylindrical surface having a common radius relative to a longitudinal axis of the stent" is not met by Wiktor. As discussed above with respect to claim 14, the short struts of the "new apex sections" of Wiktor jut radially outward relative to the long struts, and therefore, no matter how the relationship between the new apex sections and the cylindrical shell is characterized, at least the hook apex section connecting the short struts connected to the new apex sections does not lie on a common cylindrical surface with the other apex sections. Thus, the non-

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uniform and the generally uniform apex sections of claim 25 cannot be anticipated by Wiktor because Wiktor does not teach, disclose or suggest that all of its apex sections lie on a cylindrical surface having a common radius relative to a longitudinal axis of the stent.

Applicants respectfully submit, that independent claims 14 and 25 are therefore patentable over Wiktor. Claims 15-24 and 26-28 are also patentable over Wiktor at least for the same reasons that claims 14 and 25, on which they are dependent, are patentable, but may be separately patentable for additional reasons as well.

Conclusion

In view of the arguments set forth above, Applicants respectfully request reconsideration of all rejected claims and contend that the currently pending claims are in condition for allowance. If the Examiner in charge of this application deems otherwise, Applicants request the courtesy of a telephone call to Applicants' attorneys to discuss any remaining issues which might preclude a Notice of Allowance.

Respectfully submitted,



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Attachments: Wiktor Patent Figure 8 (annotated)

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